

Easterwood



Comptroller General
of the United States

111755

Washington, D.C. 20548

Decision

Matter of: Erich W. Koch - Indirect Travel - Return from Overseas Assignment

File: B-252529.2

Date: May 5, 1994

DIGEST

An employee of the Army transferred from Chicago to Germany with reemployment rights in Chicago upon completion of the assignment in Germany. Because of the impending closure of the base in Chicago, he elected transfer of his employment rights to Fort McPherson, Georgia. Upon his transfer from Germany directly to Fort McPherson, he traveled under an amended order authorizing travel by a circuitous route via Chicago to pick up an automobile. He may not be paid travel expenses in excess of those necessary to permit travel on a usually traveled route directly from Germany to Fort McPherson. The travel orders contained a specific provision stating that the employee would be responsible for additional costs via Chicago, and in any event, the Federal Travel Regulations require that the extra expense of travel via a circuitous route be borne by the employee.

DECISION

Mr. Erich W. Koch, an employee of the Army, has appealed our Claims Group's settlement¹ which upheld the Army's denial of travel expenses by a circuitous route in excess of those necessary to permit his travel by a usually traveled route directly from his old duty station in Heidelberg, Germany, to his new duty station in Fort McPherson, Georgia. For the reasons discussed below we sustain the denial.

BACKGROUND

The Army transferred Mr. Koch from Fort Sheridan, Illinois, to Heidelberg, Germany, in October 1989, at which time he owned two automobiles. Mr. Koch shipped one of his automobiles at government expense to Heidelberg and stored the

¹Z-2868334, May 5, 1993.

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other one near Fort Sheridan in the Chicago area.² While Mr. Koch was in Germany, he was made aware of the anticipated closing of Fort Sheridan, and he elected to have his reemployment rights transferred from Fort Sheridan to Fort McPherson, Georgia. He subsequently accepted a transfer from Heidelberg to Fort McPherson in October 1992. His original travel order listed his destination as Fort McPherson and his alternate destination as Chicago, Illinois [where Fort Sheridan is located] and also stated that "Any additional expenses incurred by travel . . . to alternate destination will be borne by the employee." However, just before Mr. Koch left Germany, his order was amended to say: "Employee auth to fly from Frankfurt, Ge[rmany] to Chicago, Ill. He will drive by car to Ft. McPherson, Ga." That amendment, however, did not affect the provision in the original order, quoted above, to the effect that any additional expenses incurred for travel to Chicago would be borne by Mr. Koch.

Mr. Koch apparently disposed overseas of the automobile he had shipped at government expense to Germany, since he did not have it returned at government expense incident to his assignment to Fort McPherson. He states that this saved the government money and thus would justify his travel at government expense under the amended travel order via the circuitous route by air from Germany to Chicago and then via his automobile from Chicago to Fort McPherson. The Army, however, reimbursed him only the constructive costs of direct travel on the usually traveled route from Germany to Fort McPherson. Our Claims Group affirmed the Army's action and disallowed Mr. Koch's claim for additional costs of travel via the circuitous route.³

OPINION

Although Mr. Koch had return rights to a position in Chicago pursuant to 10 U.S.C. § 1586,⁴ and Chicago may have been Mr. Koch's actual residence and home of record to which he

²Federal Travel Regulation, 41 C.F.R. § 302-10.3 authorizes shipment at government expense of one privately owned vehicle to the new duty station incident to an employee's transfer outside the continental United States.

³Mr. Koch's claimed excess costs were taxi charges at the Chicago airport and mileage, tolls and per diem for driving his automobile from Chicago to Fort McPherson.

⁴10 U.S.C. § 1586 provides for granting the right of return to a position in the United States to Defense Establishment employees transferred to positions outside the United States.

would have been entitled to travel expenses under 5 U.S.C. § 5722 upon completion of his tour of duty in Germany, those return rights were extinguished when he accepted a transfer from Germany to Fort McPherson. That is, he then had no travel and transportation entitlement to Chicago and then to Fort McPherson but only an entitlement from his old duty station in Germany to his new duty station at Fort McPherson. Roger E. Dexter, B-214904, Sept. 5, 1984. In connection with the performance of travel during a transfer, the Federal Travel Regulation (FTR), 41 C.F.R. §§ 302-2.1 and 301-2.5(b) (1993), requires that employees who use circuitous routes for official travel are responsible for the excess costs involved. Sydney Smith, B-193923, Jan. 3, 1980. Thus, since Mr. Koch did not travel from Heidelberg to Fort McPherson by a usually traveled route but by a circuitous route via Chicago, he is responsible for the excess costs.

While Mr. Koch argues that the amendment to his travel order authorized the circuitous travel at government expense, as noted above, the amendment did not remove the explicit statement in the original order that any additional travel costs via Chicago would be at the employee's expense. In any event, however, where a travel order is clearly in conflict with the governing regulation, such as the FTR provision referred to above prohibiting circuitous travel at government expense, the provision in the travel order that conflicts with the governing regulation is of no effect. See Steven B. Wirth, B-249337, May 6, 1993. Also, while Mr. Koch's decision not to return his automobile from Germany at government expense may have saved the government that expense, that does not provide a basis to allow him to travel via a circuitous route at government expense contrary to the provisions of the FTR. Thus, the Army correctly limited Mr. Koch's reimbursement to the costs of travel via the usually travelled direct route.⁵ Accordingly, our

⁵We note that there is now statutory authority to allow reimbursement for the sale of a residence at the old duty station where an employee is transferred from an overseas duty station to a different duty station in the United States than the one from which he transferred (where his residence was located) to the overseas station. See 5 U.S.C. § 5724a(a)(4)(A), as amended by Section 628(a)(1) of Title VI, § 101(m), Pub. L. 100-202 (1987). However, we are aware of no similar statutory authority to allow payment of excess costs of travel via the old station claimed in this case.

Claims Group's disallowance of Mr. Koch's claim for additional amounts for travel via the circuitous route is sustained.

for *Seymour E. Jones*

Robert P. Murphy
Acting General Counsel